

James Alan Bush
1745 De Marietta Avenue #3
San Jose, CA 95126
(408) 982-3272

Plaintiff in pro per

FILED

2008 MAY 29 A 9 30

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

James Alan Bush,)	Case No.: C 08-01354 (RS) JF
)	
Petitioner,)	EX PARTE MOTION TO EXPEDITE
)	DISCOVERY
v.)	
)	
Officer Anthony Sult, Sunnyvale)	
Department of Public Safety,)	
)	
Respondents.)	Judge Jeremy Fogel
_____)	

EX PARTE MOTION TO EXPEDITE DISCOVERY

Petitioner files this motion to expedite discovery, seeking discovery in advance of the Rule 26(f) discovery conference, and, in particular, asking this Court to order Respondent, Anthony Sult, a law enforcement officer employed by the Sunnyvale Department of Public Safety, to explain his use of the term, "listening devices," in a phone

1 conversation with Petitioner, which took place on August 5th, 2006, at
2 1:27 PM. A transcript of this conversation is attached hereto as Exhibit
3 "A" and made a part hereof; the corresponding audio recording is
4 attached hereto as Exhibit "B" and made a part hereof.

5 In particular, Petitioner requests that Respondent Sult answer the
6 following, in regards to the term "listening device":

- 7 1. where he first heard the term;
- 8 2. who he heard first use the term;
- 9 3. his interpretation of the meaning intended by the person who first
10 used the term; and,
- 11 4. his intended meaning of the term, within the context of the phone
12 conversation with the petitioner, described in other words.

13 14 **GROUND FOR RELIEF**

15 Petitioner requires discovery of the above-described information to
16 determine if Respondent Sult is liable¹ for failing to act or protect
17 or to enforce the law² on Petitioner's behalf, for purposes of Title
18 42 U.S.C.S. § 1983; specifically, Petitioner seeks to discover whether
19 Respondent Sult was aware of, or witnessed, any crimes committed
20 against the petitioner, and, in particular, the "voices" form of
21 torture, as implied by Respondent Sult in a phone conversation with
22 Petitioner; and, if so, Petitioner will file a petition for declaratory
23 relief, asking this Court to determine whether Respondent Sult had a
24 constitutional duty³ to protect Petitioner and whether his (or a third-
25 party's)⁴ failure to do so amounts to deliberate indifference⁵ for the
26 safety of the petitioner, within the meaning of Title 42 U.S.C.S. § 1983.

The response provided by Respondent Sult will allow the petitioner to sufficiently plead one or more of the following causes of action:

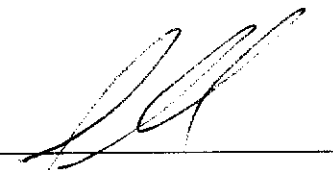
- negligent failure to protect, to act, or to enforce the law, resulting in the deprivation of a constitutional right [Title 42 U.S.C.S. § 1983]
- misprision of felony [Title 18 U.S.C. § 4]
- constitutional violation of invasion of privacy under color of law [Title 42 U.S.C.S. § 1983]
- violation of the Invasion of Privacy Act [Penal Code §§ 630-637.6]
- unlawful interception, disclosure, or use of wire communications [Penal Code §§ 629.50-629.98]

REQUEST FOR EXPEDITED CONSIDERATION

Petitioners requests expedited consideration of this matter and seeks an order from this Court, against Respondents, Officer Anthony Sult and Sunnvyale Department of Public Safety, compelling discovery of the information described herein, as soon as possible.

RECORDS ON MOTION

This motion is based on the information contained in this document, memoranda, and its exhibits, and the Certificate of Service showing service of these motion papers to Officer Anthony Sult, Sunnyvale Department of Public Safety, and the District Attorney, City of Sunnyvale.

Signed: 

Dated: 5-29-08